

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

CICERO JORDAN JONES,
(Former Brazos County #216580)

Plaintiff,

vs.

RICK PERRY, *et al.*,

Defendants.

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CIVIL ACTION H-11-1754

MEMORANDUM AND OPINION

Cicero Jordan Jones, a former inmate of the Brazos County Detention Center, filed this suit in May 2011, alleging civil rights violations. Jones, proceeding *pro se* and *in forma pauperis*, sued the governor and attorney general of the State of Texas. Jones complains that Texas Governor Perry signed legislation that forced “dead beat” parents to pay child support and that Attorney General Abbott’s enforcement of the child support laws amount to cruel and unusual punishment. Jones alleged that he is unskilled and uneducated and has had difficulty in finding a job in this depressed economy. Jones states that in July 2005, the Texas Attorney General’s Office Child Support Division (“Child Support Division”) ordered him to make child support payments. He was unable to do so. The Child Support Division initiated contempt proceedings against Jones in the 272nd District Court in Bryan, Texas. Jones was convicted and placed in the Brazos County Detention Center.

Jones alleges that the child support laws have placed great stress on his family and contributed to another broken home. He states that his children and grandchildren have lost respect for him because he “keep[s] ‘getting locked up’ by the State of Texas for breaking the Law like a

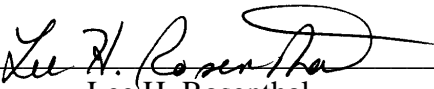
hardened criminal.” (Docket Entry No. 1, Complaint, p. 6). He alleges that because he has been incarcerated for his child-support related convictions, he suffers from depression, sleeplessness, anxiety, fear of injury from other inmates, and nightmares. Jones seeks a declaratory judgment that the enforcement of legislation on collecting child support is unconstitutional. He also seeks unspecified monetary, compensatory, and punitive damages.

A federal court has the authority to dismiss an action in which the plaintiff is proceeding *in forma pauperis* before service if the court determines that the action is frivolous or malicious. 28 U.S.C. § 1915(e)(2)(B)(I). A complaint is frivolous if it lacks an arguable basis in law or fact. *See Denton v. Hernandez*, 504 U.S. 25, 31 (1992); *Richardson v. Spurlock*, 260 F.3d 495, 498 (5th Cir. 2001) (citing *Siglar v. Hightower*, 112 F.3d 191, 193 (5th Cir. 1997)). “A complaint lacks an arguable basis in law if it is based on an indisputably meritless legal theory, such as if the complaint alleges the violation of a legal interest which clearly does not exist.” *Davis v. Scott*, 157 F.3d 1003, 1005 (5th Cir. 1998) (quoting *McCormick v. Stalder*, 105 F.3d 1059, 1061 (5th Cir. 1997)).

To the extent Jones is asserting a constitutional violation based on the enforcement of child support obligations imposed by the Texas legislature against someone who did not pay child support because they allegedly could not afford to do so, his suit fails to state a claim. To the extent Jones is asking this federal court to determine that he does not owe any child support, he raises a domestic relations issue over which this court lacks subject matter jurisdiction. There is no federal question jurisdiction over the state case concerning the collection of child support from Jones. *See Ex parte Burrus*, 136 U.S. 586, 593-94 (1890) (“The whole subject of the domestic relations of husband and wife, parent and child, belongs to the laws of the states, and not to the laws of the United States.”). Jones’s civil rights claims against Rick Perry and Greg Abbott are dismissed.

An order of dismissal is separately entered.

SIGNED on July 18, 2011, at Houston, Texas.



Lee H. Rosenthal
United States District Judge